

Appl. No. 09/945,377
Reply to Office action of December 30, 2003

REMARKS/ARGUMENTS

In response to the Office Action mailed December 30, 2003, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

By this Amendment, Applicant has canceled claim 20 without prejudice and has amended claims 19, 22, 23, 26, 34 and 35. No new matter is added by this Amendment. All of the Examiner's grounds for rejection have now been addressed and Applicant therefore respectfully requests that the Examiner pass the pending claims to allowance.

Rejection of claims 19-24, 26-30 and 32-36 under 35 U.S.C. § 102(b)

The Examiner rejected claims 19-24, 26-30 and 32-36 as being anticipated by Paez. As for claim 19, the Examiner asserts that Paez shows every claimed feature of claims 19 and 20, including a hinge deflector 90, 92, 94 with an inner side (one side of plate 90, figure 9), an outer side (the other surface of plate 90, plate 92, projection 94 of plate 92), and a first projection 94, 106 (of plate 90) with a curved surface. The Examiner further asserts that the hinge deflector 90, 92, 94 of Paez is capable of deflecting an object as recited. As for claims 21 and 34, the Examiner asserts that the other surface of plate 90 and projection 94 together form a recess for encasing portions of the hinge. As for claims 22, 23 and 35, the Examiner refers to the second projection 94, 108 (of plate 92, note figure 8). As for claims 24 and 36, the Examiner asserts that Paez teaches that hinge deflector 90, 92, 94 may be formed of a high-strength plastic material. As for claims 26 and 27, the Examiner refers to the comments relative to claims 19 and 21 above. As for claim 28, the Examiner notes the openings 98 (of plate 92) in figure 7, 100 (of plate 90). As for claim 29, the Examiner refers to the comments relative to claim 24 above. As for claim 30, the Examiner refers to the comments relative to claims 22 and 23 above. As for claims 32, 33, the Examiner asserts that the hinge deflector 90, 92 and 94 has a substantially elliptical shape.

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Applicant respectfully disagrees with the Examiner's characterization of the structure disclosed in Paez. Paez fails to teach or suggest a hinge deflector as claimed by Applicant. Rather, Paez teaches a knee brace formed with knee brace hinges for limiting the range of hinge motion. The medial and lateral hinges are identical and comprise a pair of substantially identical plates 90 and 92, each plate having an upstanding boss 94 for enabling the plates to be interlocked around the hinge. Each boss is provided with a threaded opening for receiving an abutment stop screw 106 and 108 therein.

The Examiner refers to components 90, 92 and 94 as comprising a "hinge deflector." However, in contrast to Applicant's claimed invention, plate 92 is not worn between a medial hinge and the person's knee. Rather, plate 92 is provided on an outer side of the medial hinge. The Examiner refers to components 94 and 106 as comprising a "first projection." However, set screw 106 does not extend around a front edge of the medial hinge, as recited by Applicant. Rather, set screw 106 extends through a threaded hole in boss 94 for adjusting the range of motion of the hinge. The Examiner asserts that a first projection 94, 106 has a curved surface. However, nowhere does Paez disclose or suggest a first projection having a curved surface that is shaped for deflecting an object away from the medial hinge. The Examiner refers to plate 90 and boss 94 as forming a recess. However, nothing in the cited structure provides a recess (i.e., indentation) for receiving at least a portion of the medial hinge.

Although Applicant disagrees with the Examiner's characterization of Paez, Applicant has amended independent claims 19, 26 and 34 to clarify preferred features of the present invention for presenting the pending claims in condition for allowance. As amended, claim 19 now recites a hinge deflector formed with an inner side and an outer side. The outer side is formed with a first projection having a curved surface extending along a front edge of said hinge deflector. As amended, claim 19 clarifies that the curved surface slopes in a rearward direction from the inner side of the hinge deflector toward an outer side of the medial hinge for deflecting an object away from the medial hinge. For purposes of illustration, Figure 7 of the present application shows one preferred embodiment of a hinge deflector having an outer surface 405b that includes the features recited in Applicant's amended claim 19.

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In contrast to Applicant's claimed invention, Paez fails to teach or suggest a curved surface extending along a front edge of a hinge deflector wherein the curved surface slopes in a rearward direction from the inner side of the hinge deflector toward an outer side of the medial hinge. Rather, plate 90 in Paez has a boss 94 with a flat front edge and a flat outer surface with a sharp transition therebetween. Paez fails to teach or suggest anything about a first projection having a curved surface that slopes in a rearward direction, as recited by Applicant. Applicant further notes that Paez fails to disclose a second projection extending away from the knee and around a rear edge of the medial hinge, as recited in Applicant's amended claim 22. Rather, the boss 94 located along the rear edge of the medial hinge in Paez extends inward (toward the knee) from the second plate 92. Still further, Paez fails to disclose or suggest a second projection that contacts the upper and lower portions of the knee brace for limiting rotational movement of the hinge, as recited in Applicant's amended claim 23.

Applicant has amended independent claim 26 to recite a hinge deflector comprising a shell configured for placement between a person's knee and a medial hinge of a knee brace. The shell has an inner side shaped for placement along a medial portion of the person's knee and an outer side configured to face the medial hinge. The outer side includes a first projection that extends around a front edge of the medial hinge. The first projection is formed with a curved surface sloping in a rearward direction for deflecting an object away from the medial hinge. In contrast, the plates 90 and 92 disclosed by Paez are not shaped for placement along a knee. As shown in Figure 7 of Paez, the plates are separated from the person's knee by a pad 28 and a knee cage 10. Furthermore, as discussed above, Paez fails to teach or suggest an outer side having a curved surface that slopes in a rearward direction around the front edge of the medial hinge.

Applicant has amended independent claim 34 to recite a hinge deflector adapted to be worn between the person's knee and the medial hinge wherein the hinge deflector has a contoured inner side configured to be positioned along a medial portion of the person's knee. In contrast, Paez fails to teach or suggest a hinge deflector having an inner side that is contoured for placement along a medial portion of a person's knee. Furthermore, Paez fails to disclose a

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second projection extending outward from the knee and around a rear edge of the medial hinge and positioned for contacting the upper and lower portions, as recited in Applicant's claim 35.

Accordingly, Paez does not teach or suggest the unique combination of features recited by Applicant's amended claims 19, 26 and 34. Furthermore, Paez does not teach or suggest the unique combination of features of the claims that depend on claims 19, 24 and 36. Therefore, Applicant respectfully requests that the Examiner withdraw the rejections of claims 19-24, 26-30 and 32-36 under 35 U.S.C. § 102(b) based on Paez.

Rejection of claims 25 and 31 under 35 U.S.C. § 103(a)

The Examiner rejects claims 25 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Paez and further in view of Knoth, or Shook, or Mason et al. The Examiner concedes that Paez does not teach ribs; however, the Examiner asserts that Knoth, or Shook, or Mason et al. each teaches this structure. Finally, the Examiner asserts that it would have been obvious to provide ribs to a shell or any structure for the purpose of strengthening the structure or shell.

As discussed above, Paez fails to teach or suggest the features of Applicant's amended claims 19, 26 and 34. Combining Paez with Knoth, or Shook, or Mason et al. also fails to teach each and every element of the claimed invention. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections of claims 25 and 31 under 35 U.S.C. §103(a).

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CONCLUSION

In light of the foregoing amendments to the claims and the above remarks, Applicant presents this application in condition for allowance, and such action is respectfully requested. Should the Examiner have any questions, the Examiner is encouraged to contact the attorney of record at the telephone number indicated below.

Respectfully submitted,

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Dated: March 1, 2004

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